

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---|---|-----------------------------|
| ERIC H. TALBERT and JONATHAN BURDZY, | : | |
| On behalf of themselves and other similarly | : | |
| situated persons | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | Civil No. 2:19-cv-05010-JMG |
| | : | |
| AMERICAN WATER WORKS COMPANY, | : | |
| INC., <i>et al.</i> , | : | |
| Defendants. | : | |

ORDER

AND NOW, this 7th day of May, 2021, after careful consideration of Defendants' Motions to Dismiss (ECF Nos. 17, 27) and Reply in Support of the Motions to Dismiss (ECF No. 21), and Plaintiffs' Responses in Opposition to the Motions to Dismiss (ECF No. 18, 31) and Sur-Reply in Opposition to the Motions to Dismiss (ECF No. 33), it is hereby **ORDERED** as follows:

1. Defendant Tennessee American Water Company's (TAWC) Motion to Dismiss (ECF No. 27) is **GRANTED**. Plaintiffs' claims against TAWC are **DISMISSED** for lack of standing.
2. Defendants American Water Works Company, Inc. (AWWC), Pennsylvania-American Water Company (PAWC), and New Jersey American Water Company's (NJAWC) Motion to Dismiss (ECF No. 17) is **GRANTED in part** and **DENIED in part** as follows:
 - a. The Court **GRANTS** the Defendants' motion to dismiss for lack of standing all claims arising in states where no named plaintiff is located.

- b. Plaintiffs' claims against AWWC and NJAWC are **DISMISSED** for lack of personal jurisdiction.
- c. Plaintiffs' claims in Count 3 are **REFERRED** to the Pennsylvania Department of Environmental Protection (PADEP), consistent with my accompanying memorandum.
- d. Plaintiffs' claims in Counts 4 and 5 are **REFERRED** to the Pennsylvania Public Utility Commission (PUC), consistent with my accompanying memorandum.
- e. Plaintiffs' claims in Counts 1 and 2 are **DISMISSED WITH PREJUDICE**.
- f. Defendants' request to strike the class allegations is **DENIED** without prejudice for Defendants to renew their request upon completion of the PADEP and the PUC proceedings.
- g. This matter is **STAYED** pending resolution of Plaintiffs' claims before the PADEP and the PUC. This matter shall be placed in **CIVIL SUSPENSE** until further order of the Court. Counsel are **DIRECTED** to submit a brief status report every 90 days and upon completion of the PADEP and the PUC proceedings.

BY THE COURT:

/s/ John M. Gallagher
JOHN M. GALLAGHER
United States District Court Judge